

United States District Court

# EASTERN DISTRICT OF NORTH CAROLINA

MICHAEL STEWART,  
Plaintiff,

$$V.$$

AVAYA, INC.,  
Defendant.

**JUDGMENT IN A CIVIL CASE**  
**CASE NO. 5:06-CV-232-F**

\_\_\_\_ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

X **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that Avaya's Second Motion for Sanctions, Including Dismissal is ALLOWED, and Stewart's complaint is DISMISSED with prejudice. In accordance with Rule 37(b), Avaya is entitled to attorney's fees and reasonable expense caused by Stewart's failure to comply with this court's July 18, 2007 Order. Accordingly, Avaya is directed to file on or before October 1, 2007, an affidavit setting forth Avaya's fees and expenses incurred as a result of Stewart's failure to comply with the July 18, 2007 Order.

THE ABOVE JUDGMENT WAS ENTERED TODAY, **September 19, 2007**, AND A COPY MAILED VIA ELECTRONICALLY OR BY REGULAR MAIL TO:

Tonya L. Ford  
Capital City Bldg.  
16 West Martin Street, Suite 604  
Raleigh, NC 27601

Kevin J. Dalton  
227 West Trade St., Suite 2020  
Charlotte, NC 28202

September 19, 2007  
Date

DENNIS P. IAVARONE  
Clerk of Court

*Wilmington, North Carolina*

/s/ Susan K. Enyart  
(By) Deputy Clerk